

The opinion in support of the decision being  
entered today is not binding precedent of the Board.

Paper 36 43

Filed by: Trial Section Merits Panel

Mail Stop Interference

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Filed

11 March 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

**LEVER BROTHERS CO.**

Junior Party,

(Patent 6,051,545),

**FAXED**

v.

**HENKEL KGAA**

Senior Party,

(Application 09/380,739).

**MAR 11 2004**

**PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Patent Interference No. 105,143

Before LANE, MEDLEY, and TIERNEY, Administrative Patent Judges.

MEDLEY, Administrative Patent Judge.

**JUDGMENT – RULE 662**

**A. Introduction**

Lever amended its patented claims by filing a reissue application 10/740,392. Lever argued, without supporting evidence, that there was no interference-in-fact between its reissue claims and Henkel's involved claims. The administrative patent judge (APJ) initially designated to handle the interference was of the opinion that the Lever reissue claims interfered with the

involved Henkel claims (Paper 25 at 4). Accordingly, the APJ redeclared the interference to add the reissue claims as corresponding to the count. The Lever patent claims remained involved in the interference.

On 9 March 2004, a conference call was held involving the administrative patent judge (APJ) designated to handle the interference, and lead counsel for the respective parties. Per the discussion, counsel for the respective parties agreed with the APJ's determination that judgment be entered against Lever's involved patent. The interference will be redeclared in a separate concurring paper to reflect the judgment against Lever's patent.

**B. Judgment**

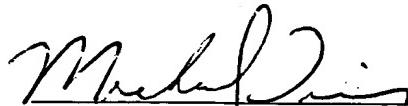
It is

**ORDERED** that judgment as to the subject matter of the count is herein entered against junior party LEVER BROTHERS CO. with respect to its involved patent;

**FURTHER ORDERED** junior party LEVER BROTHERS CO. is not entitled to its U.S. patent 6,051,545 claims 1-15 which correspond to the count;

**FURTHER ORDERED** that if there is a settlement agreement, the parties should note the requirements of 35 U.S.C. § 135(c) and 37 CFR § 1.666; and

**FURTHER ORDERED** that a copy of this judgment be filed in the respective involved application or patent of the parties.

  
SALLY GARDNER LANE )  
Administrative Patent Judge )  
 )  
  
SALLY C. MEDLEY )BOARD OF PATENT  
Administrative Patent Judge ) APPEALS AND  
 ) INTERFERENCES  
 )  
  
MICHAEL P. TIERNEY )  
Administrative Patent Judge )  
 )

cc (via facsimile):

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